

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DONALD L. HOHNSTEIN et al.,

Group No.: 2682

Examiner: unknown

Serial No.: 09/658,241

Filed: September 8, 2000

Title: REVERSE SECTORIZATION WIRELESS
COMMUNICATION

Attorney Docket No.: 1822/USW0601PUS

**PETITION UNDER 37 C.F.R. § 1.47(a)
FILING WHEN A JOINT INVENTOR
REFUSES TO SIGN**

RECEIVED

MAR 29 2001

OFFICE OF PETITIONS

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. § 1.47(a), Applicants Charles I. Cook, Guy M. Wells, Thomas Schwengler, Patrick L. Perini and Brian L. Arend having duly executed both a Declaration and an Assignment of interest in the above-mentioned patent application to Qwest Communications International Inc., petition for acceptance of filing of the above-mentioned patent application. Joint inventors Donald L. Hohnstein and Angus O. Dougherty have refused to sign either a Declaration or an Assignment.

Following are facts pertinent to this Petition. Proof of these facts is provided by the accompanying Declaration of Facts, signed by Mark D. Chuey.

1. Each inventor was mailed a copy of the application, together with a Declaration and Assignment, on December 27, 2000.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Attention Group Director, Group 2821, Commissioner for Patents, United States Patent and Trademark Office, Washington, D.C. 20231 on:

March 23, 2001
Date of Deposit

Mark D. Chuey
Name of Person Signing

Signature

09558241

03/28/2001 RHARTIS1 00000116 210456

02 FC:122 130.00 CH

2. Applicants Charles Cook, Guy Wells, Thomas Schwengler, Patrick L. Perini and Brian L. Arend signed and returned both the Declaration and Assignment.
3. Angus Dougherty was called on December 28, 2000, and asked whether or not he would sign the Declaration and Assignment. Mr. Dougherty was completely uncooperative. Mr. Dougherty indicated that he would not sign any documents and that official correspondences should occur through his lawyer.
4. Angus Dougherty was again called on March 21, 2001. At that time, he indicated his lawyer was associated with Dorsey & Whitney, L.L.P. of Denver, Colorado. Mr. Dougherty also indicated that this law firm represented his company, AirCover Network Solutions, Inc. When this firm was contacted, they denied representing Mr. Dougherty.
5. Angus Dougherty was called on March 22, 2001. When informed that he was not represented by Dorsey & Whitney, L.L.P., Mr. Dougherty indicated that all correspondences should be sent directly to him.
6. The last known address for Angus Dougherty is as follows:

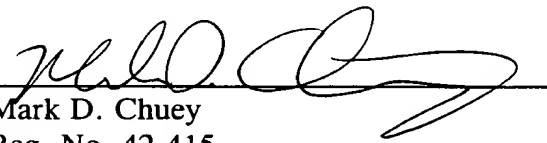
Mr. Angus O. Dougherty
1128 Ranch Place
Westminster, CO 80234
7. Donald Hohnstein was called on December 28, 2000. In response to this call, Mr. Hohnstein indicated he would sign and return the Declaration and Assignment. Mr. Hohnstein also indicated he now worked with Angus Dougherty. He did not sign and return the papers.
8. Donald Hohnstein was again called on January 18, 2001. In response to this call, Mr. Hohnstein again indicated he would sign and return the Declaration and Assignment. He did not.
9. Donald Hohnstein was again called on February 8, 2001. In response to this call, Mr. Hohnstein once again indicated he would sign and return the Declaration and Assignment. He did not.
10. Donald Hohnstein was finally called on March 21, 2001, and a message was left. The message indicated that his non-cooperation would be reported to the U.S. Patent and Trademark Office. The call was not returned.
11. The last known address for Donald Hohnstein is as follows:

Mr. Donald L. Hohnstein
2721 19th Street
Greeley, CO 80634

Please charge Deposit Account No. 21-0456 in the amount of \$130 to cover the fee under 37 C.F.R. § 1.17(i). Please charge any additional fees or credit any overpayment as a result of filing this paper to Deposit Account No. 21-0456. A duplicate copy of this Petition is enclosed for that purpose.

Respectfully submitted,

Charles I. Cook and Guy M. Wells

By: 
Mark D. Chuey
Reg. No. 42,415
Attorney/Agent for Applicant

Date: March 23, 2001

BROOKS & KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DONALD L. HOHNSTEIN et al.

Serial No.: 09/658,241

Group Art Unit: 2682

Filed: September 8, 2000

Examiner: not known

For: REVERSE SECTORIZATION WIRELESS COMMUNICATION

Attorney Docket No.: 1822/USW0601PUS

**DECLARATION OF FACTS
PERTAINING TO DILIGENT EFFORT
IN OBTAINING INVENTOR SIGNATURES**

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

RECEIVED

MAR 29 2001

OFFICE OF PETITIONS

Sir:

This declaration has been prepared to show diligent effort, required under 37 C.F.R. § 1.47, in attempting to obtain signatures for Donald L. Hohnstein and Angus O. Dougherty, named inventors on the above-mentioned patent application. This declaration was prepared in response to a Notice of Missing Parts filed November 16, 2000.

The following facts are stated to the best of my recollection:

Both Mr. Hohnstein and Mr. Dougherty were employed by Qwest Communications International Inc., assignee of the invention described in the above-mentioned patent application, at the time the invention was described to me. Both left the employment of Qwest prior to the filing date of the application.

All seven inventors were mailed a copy of the application, together with a Declaration and Assignment, on December 27, 2000 (Exhibit A). The delay between receiving the Notice of Missing Parts and mailing the applications was due to obtaining home addresses, since three of the inventors (including Mr. Wells) had left Qwest. Copies of the Federal Express Airbill for packages sent to Mr. Hohnstein and Mr. Dougherty are attached as Exhibits B and C, respectively. Messrs. Cook, Wells, Schwengler, Perini and Arend signed and returned the Declaration and Assignment.

Mr. Dougherty was telephoned by me on December 28, 2000 (303 507-6135). During the telephone conversation, he indicated that he would not sign either the Declaration or the Assignment. He further indicated that any official correspondences should be through



Serial No. 09/658,241

Atty. Docket No. 1822/USW0601PUS

his lawyer. I called Mr. Dougherty again on March 21, 2001, at which time he indicated that the law firm for his company, AirCover Network Solutions, Inc., should be used for all correspondences. Mr. Dougherty named as this firm Dorsey & Whitney, L.L.P. of Denver, Colorado. I called this firm (303 629-3400) to obtain the name of a contact person representing Mr. Dougherty, and was told that the firm did not represent Mr. Dougherty. I called Mr. Dougherty again on March 22, 2001 and informed him that he was not represented by Dorsey & Whitney, to which Mr. Dougherty replied "Oh well" and told me that all official correspondences should be forwarded directly to him.

Mr. Hohnstein was telephoned by me on December 28, 2000 (303 947-7005). During the telephone conversation, he indicated that he would sign both the Declaration and Assignment. He also indicated that he was working with Mr. Dougherty. No papers were received. Mr. Hohnstein was again telephoned by me on January 18, 2001. He agreed to sign and mail the papers but none were received. Mr. Hohnstein was again telephoned by me on February 8, 2001. Once again he agreed to sign the papers and, once again, no papers were received. Mr. Hohnstein was finally called by me on March 21, 2001, and a message was left on his answering machine. On this message, I indicated that I would file without his signature if he did not respond. The call was not returned by the time this declaration was filed.

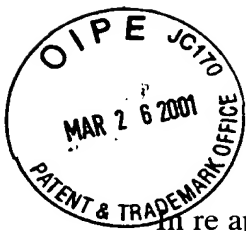
I believe that I have diligently attempted to obtain signed Declarations from Mr. Dougherty and Mr. Hohnstein.

Respectfully submitted,

Mark D. Chuey
Reg. No. 42,415

Date: 3/23/01

BROOKS & KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DONALD L. HOHNSTEIN et al.

Group Art Unit: 2682

Examiner: Unknown

Serial No.: 09/658,241

Filed: September 8, 2000

For: REVERSE SECTORIZATION WIRELESS COMMUNICATION

Attorney Docket No.: 1822/USW0601PUS

**PETITION FOR EXTENSION OF TIME
UNDER 37 C.F.R. § 1.136(a)**

BOX MISSING PARTS
Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

RECEIVED
MAR 29 2001
OFFICE OF PETITIONS

Sir:

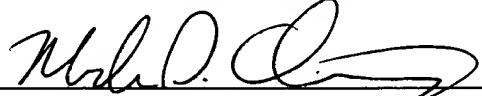
Applicant hereby petitions for a three (3) month extension of time to respond to the Notice to Filing Missing Parts of Nonprovisional Application dated November 16, 2000, thereby extending the time period within which to respond to April 16, 2001.

Please charge the \$890 fee and any additional fees or credit any overpayment as a result of the filing of this paper to Qwest Communications International Inc. Deposit Account No. 21-0456-- a duplicate of this Petition is enclosed for that purpose.

03/28/2001 RHARIS1 00000116 210456 09658241
01 FC:117 890.00 CH

Respectfully submitted,

DONALD L. HOHNSTEIN et al.

By 
Mark D. Chuey, Reg. No. 42,415
Attorney/Agent for Applicant

Date: March 23, 2001
BROOKS & KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Box Missing Parts, Commissioner for Patents, United States Patent and Trademark Office, Washington, D.C. 20231 on:

3/23/01
Date of Deposit

Mark D. Chuey
Name of Person Signing


Signature

BROOKS & KUSHMAN P.C.

Law Offices

Intellectual Property and Technology Related Causes

Ernie L. Brooks
James A. Kushman
David R. Syrowik
Mark A. Cantor
Ralph M. Burton
Robert C. J. Tuttle
Earl J. LaFontaine
Ronald M. Nabozny

Thomas A. Lewfy
John E. Nemazi
Kevin J. Heini
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Elizabeth F. Janda
Robert C. Brandenburg
A. Frank Duke
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Konstantine J. Diamond
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James N. Kallis
Hugo A. Delevie

Ralph E. Smith
Mark E. Stuenkel
Michael S. Brodbine
Seth E. Rodack
Pete N. Kioussis
James W. Proscia
Ginta D. Kukainis
Lawrence G. Almeda
Philip Abromats

Registered Patent Agents

Mark D. Chuey, Ph.D.
Stephanie M. Mansfield, Ph.D.
Jeremy J. Curcuri
Robert C. Jones
Matthew R. Mowers
Matthew M. Jakubowski

VIA FEDERAL EXPRESS

December 27, 2000

Mr. Donald L. Hohnstein
2721 19th Street
Greeley, CO 80634

Mr. Charles I. Cook
182 Cherrywood Lane
Louisville, CO 80027

Mr. Thomas Schwengler
2152 South Holland St.
Lakewood, CO 80227

Mr. Guy M. Wells
480 West Street
Louisville, CO 80027

Mr. Angus O. Dougherty
11281 Ranch Place
Westminster, CO 80234

Mr. Patrick L. Perini
9679 Yukon Court
Broomfield, CO 80021

Mr. Brian L. Arend
4429 Woodchuck Drive
Masonville, CO 80541

Re: U.S. Serial No. 09/658,241
REVERSE SECTORIZATION WIRELESS COMMUNICATION
Your Ref.: 1822
Our File: USW 0601 PUS

Dear Inventors:

Attached please find a copy of the above-identified patent application which was filed with the U.S. Patent and Trademark Office on September 8, 2000. Also enclosed are formal papers requiring your signature. Please sign and date the attached Declaration and Assignment documents where indicated. Kindly note that the Assignment document requires notarization. Please return these documents to us before **January 10, 2001**.

Please be reminded that the information contained within this application is confidential and proprietary.



1000 TOWN CENTER, TWENTY-SECOND FLOOR, SOUTHFIELD, MICHIGAN 48075
TELEPHONE (248) 358-4400, FACSIMILE (248) 358-3351

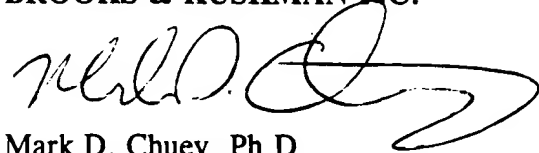
EXHIBIT A

December 27, 2000
Page 2

If you have any questions or concerns regarding this application, please do not hesitate to contact me.

Very truly yours,

BROOKS & KUSHMAN P.C.

A handwritten signature in black ink, appearing to read 'Mark D. Chuey', with a large, stylized flourish extending from the end of the signature.

Mark D. Chuey, Ph.D.

MDC/ap
Enclosures

FedEx USA Airbill
Express

FedEx
Tracking
Number

825310964802

From Please print and press hard.

Date 12/27/00

Sender's FedEx
Account Number

1138-3020-4

Sender's
Name Mark D. Chuey

Phone (248) 358-4400

Company BROOKS & KUSHMAN

Address 1000 TOWN CTR FL 22

Dept./Floor/Suite/Room

City SOUTHFIELD

State MI

ZIP 48075

Your Internal Billing Reference

First 24 characters will appear on invoice.

USW 0601 PUS

To

Recipient's
Name Donald L. Hohnstein

Phone ()

Company

Address 2721 19th Street

To "HOLD" at FedEx location, print FedEx address.

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Dept./Floor/Suite/Room

City Greeley

State CO

ZIP 80634

Peel and Stick FedEx USA Airbill

See back for application instructions.

Questions? Visit our Web site at www.fedex.com

or call 1-800-Go-FedEx® (800)463-3339.

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and in our current Service Guide, including terms that limit our liability.

0161786063

4a Express Package Service

☒ FedEx Priority Overnight
Next business morning

☐ FedEx Standard Overnight
Next business afternoon

Packages up to 150 lbs.
Delivery commitment may be later in some areas.
☐ FedEx First Overnight
Earliest next business morning
delivery to select locations

☐ FedEx 2Day®
Second business day

☐ FedEx Express Saver®
Third business day

* FedEx Envelope/Letter Rate not available
Minimum charge: One-pound rate

4b Express Freight Service

☐ FedEx 1Day Freight®
Next business day

☐ FedEx 2Day Freight
Second business day

☐ FedEx 3Day Freight
Third business day

Packages over 150 lbs.
Delivery commitment may be later in some areas.

* Call for Confirmation.

5 Packaging

* Declared value limit \$500

☒ FedEx Envelope/Letter*

☐ FedEx Pak*

☐ Other Pkg.
Includes FedEx Box, FedEx
Tube, and customer pkg.

6 Special Handling

☐ SATURDAY Delivery
RESTRICTIONS

Available only for FedEx Priority
Overnight and FedEx 2Day
to select ZIP codes

☐ SUNDAY Delivery
RESTRICTIONS

Available only for FedEx Priority
Overnight to select ZIP codes

☐ HOLD Weekday
at FedEx Location

RESTRICTIONS
Not available with
FedEx First Overnight

☐ HOLD Saturday
at FedEx Location

RESTRICTIONS
Available only for FedEx Priority
Overnight and FedEx 2Day
to select locations

Does this shipment contain dangerous goods?

☒ No ☐ Yes
One box must be checked.

☐ Yes
As per attached
Shipper's Declaration

☐ Yes
Shipper's Declaration
not required

☐ Dry Ice
Dry Ice, 3, UN 1845 x kg

Dangerous Goods cannot be shipped in FedEx packaging.

☐ Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

☒ Sender
Acct. No. in Section
1 will be billed.

☐ Recipient

☐ Third Party

☐ Credit Card

☐ Cash/Check

FedEx Acct. No.
Credit Card No.

Exp.
Date

Total Packages

Total Weight

Total Declared Value*

1

\$

.00

*Our liability is limited to \$100 unless you declare a higher value. See back for details.

FedEx Use Only

8 Release Signature

Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature
and agree to indemnify and hold us harmless from any resulting claims.

402

Rev. Date 7/00 Part #155812G ©1994-2000 FedEx® PRINTED IN U.S.A. GBFE 11/00

EXHIBIT B

fedEx USA Airbill
821870302834

 Form
 LG, No.

0215

OM Please print and press hard.

 Date **12/27/00** Sender's FedEx Account Number **1138-3020-4**

 Sender's Name **Mark D. Chuey** Phone **(248) 358-4400**

 Company **BROOKS & KUSHMAN**

 Address **1000 TOWN CTR FL 22**

Dept./Floor/Suite/Room

 City **SOUTHFIELD** State **MI** ZIP **48075**

 Your Internal Billing Reference **USW 0601 PUS**

First 24 characters will appear on invoice.

 Recipient's Name **Angus O. Dougherty** Phone ()

Company

 Address **11281 Ranch Place**

To "HOLD" at FedEx location, print FedEx address.

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Dept./Floor/Suite/Room

 City **Westminster** State **CO** ZIP **80234**
Peel and Stick FedEx USA Airbill

See back for application instructions.

Questions? Call 1-800-Go-FedEx® (800-463-3339)

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By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

0144859858
4a Express Package Service
Packages up to 150 lbs.

Delivery commitment may be later in some areas.

- ☒ **FedEx Priority Overnight** Next business morning
☐ **FedEx Standard Overnight** Next business afternoon
☐ **FedEx First Overnight** Earliest next business morning delivery to select locations
☐ **FedEx 2Day*** Second business day
☐ **FedEx Express Saver*** Third business day
 * FedEx Envelope/Letter Rate not available Minimum charge: One-pound rate

4b Express Freight Service
Packages over 150 lbs.

Delivery commitment may be later in some areas.

- ☐ **FedEx 1Day Freight*** Next business day
☐ **FedEx 2Day Freight** Second business day
☐ **FedEx 3Day Freight** Third business day

* Call for Confirmation.

* Declared value limit \$500

5 Packaging

- ☒ **FedEx Envelope/Letter*** ☐ **FedEx Pak*** ☐ **Other Pkg.** Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling

Include FedEx address in Section 3.

- ☐ **SATURDAY Delivery** Available for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
☐ **SUNDAY Delivery** Available for FedEx Priority Overnight to select ZIP codes
☐ **HOLD Weekday** at FedEx Location Not available with FedEx First Overnight
☐ **HOLD Saturday** at FedEx Location Available for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods?

One box must be checked.

- ☒ **No** ☐ **Yes** As per attached Shipper's Declaration ☐ **Yes** Shipper's Declaration not required ☐ **Dry Ice** Dry Ice, 9, UN 1845 x kg
 Dangerous Goods cannot be shipped in FedEx packaging. ☐ **Cargo Aircraft Only**

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

- ☒ **Sender** Acct. No. in Section 1 will be billed. ☐ **Recipient** ☐ **Third Party** ☐ **Credit Card** ☐ **Cash/Check**

 FedEx Acct. No.
 Credit Card No.

 Exp.
 Date

Total Packages	Total Weight	Total Declared Value†
1		\$.00

†Our liability is limited to \$100 unless you declare a higher value. See back for details.

FedEx Use Only

8 Release Signature

Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

402

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EXHIBIT C